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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF WYOMING**

In re: ) Chapter 11  
 )  
POWELL VALLEY HEALTH CARE, INC., ) Case No. 16-20326  
 )  
Debtor-in-Possession. )

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**THIRD MOTION TO VACATE AND CONTINUE HEARING SET FOR  
FEBRUARY 22, 2017, AT 2:00 P.M. ON THE INSURANCE  
COMPANIES' JOINT MOTION FOR RELIEF FROM AUTOMATIC STAY**

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COME NOW UMIA Insurance, Inc. (“**UMIA**”), on behalf of itself and Lexington Insurance Company (“**Lexington**”) and Homeland Insurance Company of New York (“**Homeland**”) (collectively, the “**Insurance Companies**”), each a party in interest in the Debtor’s Chapter 11 case, for this Motion to Vacate and Continue (the “**Motion**”) the Hearing set for February 22, 2017, at 2:00 p.m. (the “**Hearing**”) on the Insurance Companies’ Joint Motion for Relief From Automatic Stay to Permit Prepetition Litigation to Continue in the United States District Court for the District of Wyoming (Docket No. 354) (the “**Stay Relief Motion**”) and all pleadings filed in opposition thereto (Docket Nos. 373 and 374). In support of the Motion, the Insurance Companies state as follows:

### **BACKGROUND**

1. On October 31, 2016, after being advised that the Stay Relief Motion was about to be filed, the Debtor filed its Motion for Authorization to Conduct Rule 2004 Examination of the Malpractice Insurance Companies (the “**Rule 2004 Motion**”). (Docket No. 353).

2. In the weeks after the filing of the Stay Relief Motion, the Insurance Companies and the Debtor participated in meaningful discussions regarding the relief sought in the both the Stay Relief Motion and Rule 2004 Motion.

3. The Court first set the Hearing for the Stay Relief Motion, on a preliminary basis, for November 30, 2016, and scheduled an evidentiary hearing thereon for December 29, 2016 at 10:30 a.m. (Docket No. 376). The Hearing was subsequently rescheduled, *sua sponte* by the Court, to December 7, 2016 on a preliminary basis with the evidentiary hearing remaining on December 29, 2016. Docket No. 388).

4. Concurrent with the rescheduling of the Hearing on the Stay Relief Motion, the Debtor requested and obtained a separate continuance on its hearing of the Rule 2004 Motion originally scheduled for November 23, 2016 to December 7, 2016 in order to coincide with the Hearing on the Stay Relief Motion as the issues in the two motions are inextricably intertwined. (Docket No. 381).

5. Prior to the December 7, 2016 hearings on both the Rule 2004 Motion and Stay Relief Motion, the Debtor advised the Insurance Companies that it had made substantial progress towards negotiating a consensual plan with the Committee and requested that the Insurance Companies continue the Hearing for 30 days in order to allow plan negotiations to continue.

6. Accordingly, the Insurance Companies agreed to the Debtor’s request and obtained a continuance of the Hearing to January 11, 2017. (Docket No. 404).

7. Prior to the January 11, 2017, hearing the Debtor advised the Insurance Companies that it was close to finalizing the terms of its consensual plan but still required additional time in order to get its plan an disclosure statement on file, and *again* requested the Insurance Companies continue the Hearing an additional 30 days. Concurrent with the Debtor's request to continue the Hearing, the Debtor requested that the Court continue the hearing on its Rule 2004 Motion and to extend the exclusivity period—for the third time in this case—for an additional 30 days in order to finalize negotiations on its plan. (*See* Docket Nos. 425 and 429).

8. On the Debtor's representation that it was close to finalizing the terms of its plan, the Insurance Companies agreed to the Debtor's request to continue the Hearing for a second time. (*See* Docket No. 431). The Court continued the Hearing to February 22, 2017, at 2:00 p.m. (Docket No. 432).

9. On February 9, 2017, the Debtor requested—for the fourth time in this case—an extension of the exclusivity period, through March 10, 2017. (Docket No. 445).

10. The Debtor has very recently advised the Insurance Companies that it has reached an agreement with certain key stakeholders regarding the terms of a proposed plan and has represented to the Insurance Companies that a plan should be forthcoming. The Debtor has again requested that the Insurance Companies continue the Hearing for an additional 30 days.

11. While the Insurance Companies remain concerned about the continued application of the automatic stay without any plan of reorganization on file, they nonetheless acknowledge the Debtor's recent representations that it has reached an agreement regarding the terms of a consensual plan which may ultimately obviate the necessity to go forward on a Hearing of the Stay Relief Motion. Accordingly, the Insurance Companies request that the Court vacate the Hearing set for February 2, 2017, at 2:00 p.m. and continue such hearing for an

additional 30 days to coincide with a hearing on the Rule 2004 Motion. To the extent an evidentiary hearing on the Stay Relief Motion remains necessary, the Insurance Companies will inform the Court of such necessity on or before the preliminary Hearing.

12. Notwithstanding the progress the Debtor has recently made regarding its plan, the Insurance Companies reserve the right to request a status conference, pursuant to Section 105(d) of the Bankruptcy Code, regarding the status of any forthcoming plan or disclosure statement.

13. Counsel for UMIA has conferred with counsel for Lexington and Homeland who have granted authority to the undersigned to file this Motion on their collective behalf. Additionally, the undersigned has conferred with counsel for the Debtor who has indicated that the Debtor does not oppose the relief requested herein.

**WHEREFORE**, the Insurance Companies respectfully request the Court enter an order substantially in the form attached hereto at **Exhibit A** which: (1) vacates the Hearing set for February 22, 2017, at 2:00 p.m. and continues the preliminary Hearing on the Stay Relief Motion for an additional 30 days.

Dated: February 21, 2017.

**MOYE WHITE LLP**

By: /s/ Timothy M. Swanson  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that on February 21, 2017, a copy of the foregoing was served *electronically* upon those parties indicated below:

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